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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,697	04/06/2005	Georg Pfeifer	720734.00002	2824

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EXAMINER	
GERRITY, STEPHEN FRANCIS	
ART UNIT	PAPER NUMBER
3721	

MAIL DATE	DELIVERY MODE
12/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/511,697	PFEIFER, GEORG	
	Examiner	Art Unit	
	Stephen F. Gerrity	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 November 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,6-11,13,15 and 17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,6-11,13,15 and 17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *14 October 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8-11, 13 and 15-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8, lines 3 and 4, recites "an unwinding reel ... for two bands" and then later at lines 13 and 14, recites "a second unwinding reel" which renders the claims vague and indefinite as the structure of the invention is not particularly and distinctly pointed out.

Claim 8, lines 7 and 8, the language "it being the case" is vague and indefinite.

Claim 8, line 20, the recitation "the unwinding reel" is vague and indefinite as it is unclear as to which unwinding reel applicant is referring.

Claim 10, line 2, the limitation "the unwinding reel" renders the claim vague and indefinite because it is unclear to which unwinding reel applicant is referring as claim 8 recites both an unwinding reel and a second unwinding reel.

Claim 13 depends from canceled claim 12 thereby rendering the claim vague and indefinite.

These and any other informalities should be corrected so that the claims may particularly point out and distinctly claim the subject matter which applicant regards as the invention, as required by 35 U.S.C. § 112, second paragraph.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Muller (US 4,587,790).

Muller discloses that objects are compressed and secured under tension by a wound up band (see col. 6, lines 20-32). The recitation that the objects are narrower than the band roll is a statement of intended use for the apparatus, and it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller (US 4,587,790) in view of Mossbeck et al. (US 6,357,209).

The Muller reference meets all of applicant's claimed subject matter and to the extent that it could be argued that the recitation that the objects are narrower than the

band roll somehow differentiates the claimed apparatus from that of Muller, the Mossbeck et al. reference teaches that it is old and well known in the relevant art to employ a similar type of winding structure in which objects that are narrower than the band roll are rolled up under compression. It would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified the Muller apparatus to have the objects be narrower in size than the band roll, as taught by Mossbeck et al., as the substitution of one old and well known structure for another is routine to a person of ordinary skill in the art where as here the results are predictable and expected.

7. Claims 1, 2, 7, 8, 10/8, 11/10/8, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller (US 4,587,790) in view of Riedel (US 3,191,882).

The Muller reference meets all of applicant's claimed subject matter with the exception of the second band and second unwinding reel. The Riedel reference discloses that it is old and well known in the relevant art to either use a single band and single unwinding reel (fig. 1) or two bands and two unwinding reels (fig. 2). It would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified the Muller method by having provided a second unwinding reel and second band for use with the first unwinding reel and the first band, as suggested by Riedel, as the Riedel reference is evidence of the equivalence of each arrangement, and a person having ordinary skill in the art would consider the results to be predictable by the substitution of one arrangement for another.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art, as applied to claim 1 above, and further in view of Mossbeck et al. (US 6,357,209).

The Muller method, as modified by Riedel above, meets all of applicant's claimed subject matter with the exception of at least one of the bands being wider than the objects. The Mossbeck et al. reference teaches that it is old and well known in the relevant art to employ a similar type of winding structure in which at least one of the bands is wider than the objects which are rolled up under compression. It would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have further modified the Muller method by having at least one of the bands be wider than the objects, as taught by Mossbeck et al., as the substitution of one old and well known arrangement for another is routine to a person of ordinary skill in the art where as here the results are predictable and expected.

9. Claims 9, 10/9 and 11/10/9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art, as applied to claim 8 above, and further in view of Honegger (US 4,494,359).

The Muller apparatus, as modified by Riedel above, meets all of applicant's claimed subject matter with the exception of a support for the accommodating section of the band. The Honegger reference discloses a similar type of apparatus including a support (23) for the accommodating section of the band (28), as seen in fig. 4, which support changes it position (using pressing device 24) as the diameter of the winding up reel changes. It would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have further modified the Muller apparatus to

have included a support for the accommodating section of the band which support changes its position as the diameter of the winding up reel changes, as suggested by Honegger, as the combination of these known prior art elements would yield predictable results.

Response to Arguments

10. Applicant's arguments with respect to claims 1, 2, 6-11, 13 and 15-17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references listed on the attached form (PTO-892) are cited to show various machines and methods for winding up material. All are cited as being of interest and to show the state of the prior art.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen F. Gerrity whose telephone number is 571-272-4460. The examiner can normally be reached on Monday - Friday from 6:30 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen F. Gerrity/
Primary Examiner
Art Unit 3721

24 December 2007